

AMENDED IN ASSEMBLY APRIL 21, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2573

Introduced by Assembly Member Stone

February 21, 2014

An act to amend Section ~~450~~ 388 of the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

AB 2573, as amended, Stone. Foster care: transition jurisdiction.

Existing law establishes transition jurisdiction for the juvenile court, and generally provides that minors who are wards in foster care placement, and certain nonminors who are eligible for aid, and who satisfy other specified criteria, including that their rehabilitative goals have been met and juvenile court jurisdiction over them as a ward is no longer required, are within the transition jurisdiction of the juvenile court. *Existing law provides that a nonminor who was subject to an order for foster care placement at the time he or she attained 18 years of age and who has not attained 21 years of age, for whom the court has dismissed transition jurisdiction, dependency jurisdiction, or delinquency jurisdiction, but has retained general jurisdiction, may petition the court for a hearing to resume dependency jurisdiction over a former dependent or assume or resume transition jurisdiction over a former delinquent ward.*

~~This bill would delete that criterion that the juvenile's rehabilitative goals have been met, and instead provide that a minor or nonminor over whom the juvenile court has determined jurisdiction as a ward is no longer required, and who satisfies those other specified criteria, is within the transition jurisdiction of the juvenile court. authorize a court to~~

assume or resume transition jurisdiction over a nonminor who attained 18 years of age while subject to an order for foster care placement without consideration of whether the rehabilitative goals of the nonminor, as set forth in the case plan in place at the time the court dismissed delinquency jurisdiction, have been met. By increasing the duties of local entities related to, and as a result of, the juvenile court assuming or resuming transition jurisdiction, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 **SECTION 1.** *Section 388 of the Welfare and Institutions Code*
2 *is amended to read:*
3 388. (a) (1) Any parent or other person having an interest in
4 a child who is a dependent child of the juvenile court or a nonminor
5 dependent as defined in subdivision (v) of Section 11400, or the
6 child himself or herself or the nonminor dependent through a
7 properly appointed guardian may, upon grounds of change of
8 circumstance or new evidence, petition the court in the same action
9 in which the child was found to be a dependent child of the juvenile
10 court or in which a guardianship was ordered pursuant to Section
11 360 for a hearing to change, modify, or set aside any order of court
12 previously made or to terminate the jurisdiction of the court. The
13 petition shall be verified and, if made by a person other than the
14 child or the nonminor dependent shall state the petitioner's
15 relationship to or interest in the child or the nonminor dependent
16 and shall set forth in concise language any change of circumstance
17 or new evidence that is alleged to require the change of order or
18 termination of jurisdiction.

(2) When any party, including a child who is a dependent of the juvenile court, petitions the court prior to an order terminating parental rights, to modify the order that reunification services were not needed pursuant to paragraphs (4), (5), and (6) of subdivision (b) of Section 361.5, or to modify any orders related to custody or visitation of the subject child, and the court orders a hearing pursuant to subdivision (d), the court shall modify the order that reunification services were not needed pursuant to paragraphs (4), (5), and (6) of subdivision (b) of Section 361.5, or any orders related to the custody or visitation of the child for whom reunification services were not ordered pursuant to paragraphs (4), (5), and (6) of subdivision (b) of Section 361.5, only if the court finds by clear and convincing evidence that the proposed change is in the best interests of the child.

(b) Any person, including a child or the nonminor dependent who is a dependent of the juvenile court, may petition the court to assert a relationship as a sibling related by blood, adoption, or affinity through a common legal or biological parent to a child who is, or is the subject of a petition for adjudication as, a dependent of the juvenile court, and may request visitation with the dependent child, placement with or near the dependent child, or consideration when determining or implementing a case plan or permanent plan for the dependent child or make any other request for an order which may be shown to be in the best interest of the dependent child. The court may appoint a guardian ad litem to file the petition for the dependent child asserting the sibling relationship if the court determines that the appointment is necessary for the best interests of the dependent child. The petition shall be verified and shall set forth the following:

(1) Through which parent he or she is related to the dependent child.

(2) Whether he or she is related to the dependent child by blood, adoption, or affinity.

(3) The request or order that the petitioner is seeking.

(4) Why that request or order is in the best interest of the dependent child.

(c) (1) Any party, including a child who is a dependent of the juvenile court, may petition the court, prior to the hearing set pursuant to subdivision (f) of Section 366.21 for a child described by subparagraph (A) of paragraph (1) of subdivision (a) of Section

1 361.5, or prior to the hearing set pursuant to subdivision (e) of
2 Section 366.21 for a child described by subparagraph (B) or (C)
3 of paragraph (1) of subdivision (a) of Section 361.5, to terminate
4 court-ordered reunification services provided under subdivision
5 (a) of Section 361.5 only if one of the following conditions exists:

6 (A) It appears that a change of circumstance or new evidence
7 exists that satisfies a condition set forth in subdivision (b) or (e)
8 of Section 361.5 justifying termination of court-ordered
9 reunification services.

10 (B) The action or inaction of the parent or guardian creates a
11 substantial likelihood that reunification will not occur, including,
12 but not limited to, the parent's or guardian's failure to visit the
13 child, or the failure of the parent or guardian to participate regularly
14 and make substantive progress in a court-ordered treatment plan.

15 (2) In determining whether the parent or guardian has failed to
16 visit the child or participate regularly or make progress in the
17 treatment plan, the court shall consider factors that include but are
18 not limited to, the parent's or guardian's incarceration,
19 institutionalization, detention by the United States Department of
20 Homeland Security, deportation, or participation in a court-ordered
21 residential substance abuse treatment program.

22 (3) The court shall terminate reunification services during the
23 above-described time periods only upon a finding by a
24 preponderance of evidence that reasonable services have been
25 offered or provided, and upon a finding of clear and convincing
26 evidence that one of the conditions in subparagraph (A) or (B) of
27 paragraph (1) exists.

28 (4) Any party, including a nonminor dependent, as defined in
29 subdivision (v) of Section 11400, may petition the court prior to
30 the review hearing set pursuant to subdivision (d) of Section 366.31
31 to terminate the continuation of court-ordered family reunification
32 services for a nonminor dependent who has attained 18 years of
33 age. The court shall terminate family reunification services to the
34 parent or guardian if the nonminor dependent or parent or guardian
35 are not in agreement that the continued provision of court-ordered
36 family reunification services is in the best interests of the nonminor
37 dependent.

38 (5) If the court terminates reunification services, it shall order
39 that a hearing pursuant to Section 366.26 be held within 120 days.
40 On and after January 1, 2012, a hearing pursuant to Section 366.26

1 shall not be ordered if the child is a nonminor dependent. The court
2 may order a nonminor dependent who is otherwise eligible to
3 AFDC-FC benefits pursuant to Section 11403 to remain in a
4 planned, permanent living arrangement.

5 (d) If it appears that the best interests of the child or the
6 nonminor dependent may be promoted by the proposed change of
7 order, modification of reunification services, custody, or visitation
8 orders concerning a child for whom reunification services were
9 not ordered pursuant to paragraphs (4), (5), and (6) of subdivision
10 (b) of Section 361.5, recognition of a sibling relationship,
11 termination of jurisdiction, or clear and convincing evidence
12 supports revocation or termination of court-ordered reunification
13 services, the court shall order that a hearing be held and shall give
14 prior notice, or cause prior notice to be given, to the persons and
15 in the manner prescribed by Section 386, and, in those instances
16 in which the manner of giving notice is not prescribed by those
17 sections, then in the manner the court prescribes.

18 (e) (1) ~~On and after January 1, 2012, a~~ nonminor who attained
19 18 years of age while subject to an order for foster care placement
20 ~~and, commencing January 1, 2012, and~~ who has not attained 19
21 ~~years of age, or, commencing January 1, 2013, 20 years of age,~~
22 ~~or, commencing January 1, 2014, 21 years of age, or as described~~
23 ~~in Section 10103.5, for whom the court has dismissed dependency~~
24 ~~jurisdiction pursuant to Section 391, or delinquency jurisdiction~~
25 ~~pursuant to Section 607.2, or transition jurisdiction pursuant to~~
26 ~~Section 452, but has retained general jurisdiction under subdivision~~
27 ~~(b) of Section 303, or the county child welfare services, probation~~
28 ~~department, or tribal placing agency on behalf of the nonminor,~~
29 may petition the court in the same action in which the child was
30 found to be a dependent or delinquent child of the juvenile court,
31 for a hearing to resume the dependency jurisdiction over a former
32 dependent or to assume or resume transition jurisdiction over a
33 former delinquent ward pursuant to Section 450. The petition shall
34 be filed within the period that the nonminor is of the age described
35 in this paragraph. If the nonminor has completed the voluntary
36 reentry agreement, as described in subdivision (z) of Section 11400,
37 with the placing agency, the agency shall file the petition on behalf
38 of the nonminor within 15 judicial days of the date the agreement
39 was signed unless the nonminor elects to file the petition at an
40 earlier date.

(2) (A) The petition to resume jurisdiction may be filed in the juvenile court that retains general jurisdiction under subdivision (b) of Section 303, or the petition may be submitted to the juvenile court in the county where the youth resides and forwarded to the juvenile court that retained general jurisdiction and filed with that court. The juvenile court having general jurisdiction under Section 303 shall receive the petition from the court where the petition was submitted within five court days of its submission, if the petition is filed in the county of residence. The juvenile court that retained general jurisdiction shall order that a hearing be held within 15 judicial days of the date the petition was filed if there is a prima facie showing that the nonminor satisfies the following criteria:

(i) He or she was previously under juvenile court jurisdiction, subject to an order for foster care placement when he or she attained 18 years of age, and has not attained the age limits described in paragraph (1).

(ii) He or she intends to satisfy at least one of the conditions set forth in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403.

(iii) He or she wants assistance either in maintaining or securing appropriate supervised placement, or is in need of immediate placement and agrees to supervised placement pursuant to the voluntary reentry agreement as described in subdivision (z) of Section 11400.

(B) Upon ordering a hearing, the court shall give prior notice, or cause prior notice to be given, to the persons and by the means prescribed by Section 386, except that notice to parents or former guardians shall not be provided unless the nonminor requests, in writing on the face of the petition, notice to the parents or former guardians.

(3) The Judicial Council, by January 1, 2012, shall adopt rules of court to allow for telephonic appearances by nonminor former dependents or delinquents in these proceedings, and for telephonic appearances by nonminor dependents in any proceeding in which the nonminor dependent is a party, and he or she declines to appear and elects a telephonic appearance.

(4) Prior to the hearing on a petition to resume dependency jurisdiction or to assume or resume transition jurisdiction, the court shall order the county child welfare or probation department to

1 prepare a report for the court addressing whether the nonminor
2 intends to satisfy at least one of the criteria set forth in subdivision
3 (b) of Section 11403. When the recommendation is for the
4 nonminor dependent to be placed in a setting where minor
5 dependents also reside, the results of a background check of the
6 petitioning nonminor conducted pursuant to Section 16504.5, may
7 be used by the placing agency to determine appropriate placement
8 options for the nonminor. The existence of a criminal conviction
9 is not a bar to eligibility for reentry or resumption of dependency
10 jurisdiction or the assumption or resumption of transition
11 jurisdiction over a nonminor.

12 (5) (A) The court shall resume dependency jurisdiction over a
13 former dependent or assume or resume transition jurisdiction over
14 a former delinquent ward pursuant to Section 450, and order that
15 the nonminor's placement and care be under the responsibility of
16 the county child welfare services department, the probation
17 department, tribe, consortium of tribes, or tribal organization, if
18 the court finds all of the following:

19 (i) The nonminor was previously under juvenile court
20 jurisdiction subject to an order for foster care placement when he
21 or she attained 18 years of age.

22 (ii) The nonminor has not attained the age limits described in
23 paragraph (1).

24 (iii) Reentry and remaining in foster care are in the nonminor's
25 best interests.

26 (iv) The nonminor intends to satisfy, and agrees to satisfy, at
27 least one of the criteria set forth in paragraphs (1) to (5), inclusive,
28 of subdivision (b) of Section 11403, and demonstrates his or her
29 agreement to placement in a supervised setting under the placement
30 and care responsibility of the placing agency and to satisfy the
31 criteria by signing the voluntary reentry agreement as described
32 in subdivision (z) of Section 11400.

33 (B) *Notwithstanding paragraph (3) of subdivision (a) of Section*
34 *450, the court may assume or resume transition jurisdiction,*
35 *pursuant to Section 450, of a nonminor who attained 18 years of*
36 *age while subject to an order for foster care placement without*
37 *consideration of whether the rehabilitative goals of the nonminor,*
38 *as set forth in the case plan in place at the time the court dismissed*
39 *delinquency jurisdiction pursuant to Section 607.2, have been met.*

40 (B)

(C) In no event shall the court grant a continuance that would cause the hearing to resume dependency jurisdiction or to assume or resume transition jurisdiction to be completed more than 120 days after the date the petition was filed.

(C)

(D) The agency made responsible for the nonminor's placement and care pursuant to subparagraph (A) shall prepare a new transitional independent living case plan within 60 calendar days from the date the nonminor signed the voluntary reentry agreement as described in subdivision (z) of Section 11400 and submit it to the court for the review hearing under Section 366.31, to be held within 70 days of the resumption of dependency jurisdiction or assumption or resumption of transition jurisdiction. In no event shall the review hearing under Section 366.3 be held more than 170 calendar days from the date the nonminor signed the voluntary reentry agreement.

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

~~SECTION 1. Section 450 of the Welfare and Institutions Code is amended to read:~~

~~450. (a) A minor or nonminor who satisfies all of the following criteria is within the transition jurisdiction of the juvenile court:~~

~~(1) (A) The minor is a ward who is older than 17 years and 5 months of age and younger than 18 years of age and in foster care placement, or the nonminor is a ward in foster care placement who was a ward subject to an order for foster care placement on the day he or she attained 18 years of age and on and after January 1, 2012, has not attained 19 years of age, or, commencing January 1, 2013, 20 years of age, or, commencing January 1, 2014, 21 years of age.~~

~~(B) Notwithstanding subparagraph (A), the nonminor is a ward who has been receiving aid pursuant to Article 5 (commencing with Section 11400) of Chapter 2 of Part 3 of Division 9 between January 1, 2012, and December 31, 2012, and attains 19 years of age prior to January 1, 2013, or who has been receiving that aid between January 1, 2013, and December 31, 2013, and attains 20 years of age prior to January 1, 2014, and who may continue to~~

1 ~~receive aid under the applicable program, provided that the~~
2 ~~nonminor dependent continues to meet all other applicable~~
3 ~~eligibility requirements as specified in Section 11403.~~

4 ~~(2) The ward meets either of the following conditions:~~

5 ~~(A) The ward was removed from the physical custody of his or~~
6 ~~her parents or legal guardian, adjudged to be a ward of the juvenile~~
7 ~~court under Section 725, and ordered into foster care placement~~
8 ~~as a ward.~~

9 ~~(B) The ward was removed from the custody of his or her~~
10 ~~parents or legal guardian as a dependent of the court with an order~~
11 ~~for foster care placement as a dependent in effect at the time the~~
12 ~~court adjudged him or her to be a ward of the juvenile court under~~
13 ~~Section 725.~~

14 ~~(3) The juvenile court has determined that jurisdiction over the~~
15 ~~minor or nonminor as a ward pursuant to Section 602 is no longer~~
16 ~~required.~~

17 ~~(4) (A) If the ward is a minor, reunification services have been~~
18 ~~terminated; the matter has not been set for a hearing for termination~~
19 ~~of parental rights pursuant to Section 727.3 or for the establishment~~
20 ~~of guardianship pursuant to Section 728; the return of the child to~~
21 ~~the physical custody of the parents or legal guardian would create~~
22 ~~a substantial risk of detriment to the child's safety, protection, or~~
23 ~~physical or emotional well-being; and the minor has indicated an~~
24 ~~intent to sign a mutual agreement, as described in subdivision (u)~~
25 ~~of Section 11400, with the responsible agency for placement in a~~
26 ~~supervised setting as a nonminor dependent.~~

27 ~~(B) If the ward is a nonminor, he or she has signed a mutual~~
28 ~~agreement, as described in subdivision (u) of Section 11400, with~~
29 ~~the responsible agency for placement in a supervised setting as a~~
30 ~~nonminor dependent or has signed a voluntary reentry agreement,~~
31 ~~as described in subdivision (z) of Section 11400 for placement in~~
32 ~~a supervised setting as a nonminor dependent. A runaway and~~
33 ~~homeless youth shelter licensed by the State Department of Social~~
34 ~~Services pursuant to Section 1502.35 of the Health and Safety~~
35 ~~Code shall not be a placement option pursuant to this section.~~

36 ~~(b) A minor who is subject to the court's transition jurisdiction~~
37 ~~shall be referred to as a transition dependent.~~

38 ~~(c) A youth subject to the court's transition jurisdiction who is~~
39 ~~18 years of age or older shall be referred to as a nonminor~~
40 ~~dependent.~~

O